UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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2171	17

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
 after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
 earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 February 2004_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
 closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3-8,10-15,17-19,21-24,26-42,44,45,47-51 and 53-58_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _1,3-8,10-15,17-19,21-24,26-42,44,45,47-51 and 53-58_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 26 - 27, 30, 37, 53, 56 – 58, are rejected under 35 U.S.C. 102(e) as being

anticipated by Gusler et al (U.S. 2002/0156965).

◊ As per claim 26, 30, 37, 53, 56,

Gusler et al (U.S. 2002/0156965) discloses a computer system having at least

first and second backup storage systems to each store backup data from at least one

client (Fig. 2), comprising:

-      "Receiving information related to backup activities of the second backup storage

system at the first backup storage system" See Fig. 4, page 3, paragraphs 0037

– 0039. In particular:

o   "First backup storage" corresponds to "backup file system 406" in client

computer 402.

o   "Second backup storage" corresponds to "backup image/seed file" 414 in

the server 400.

      o   "Information related to backup activities" corresponds to the backup

          images or data that stored in the backup file system 406.

      o   "A first controller ... to receive information" corresponds to the "image

          collection processes 412".

◇ As per claim 27, 57 – 58,

   -   "Transmitting the information related to the backup activities of the second

      backup storage system... to the first backup storage system" See Fig. 5,

      paragraphs 0041 - 43.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

3.   Claims 1, 3 – 8, 10 – 15, 17 – 19, 21 – 24, 28 – 29, 31 – 36, 38 – 42, 44 – 45, 47

– 51, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler et al (U.S.

2002/0156965).

◊ As per claim 1, 7, 12, 17, 22, 40, 44, 49,

Gusler, Jr. et al (U.S. 5,799,323) discloses a computer system comprising:

- "A plurality of backup storage systems" See Fig. 4, element 406, 414, Gusler.

    o "The first backup storage system" corresponds to "backup file system 406"

       in client computer 402.

    o "The second backup storage system" corresponds to "backup image/seed

       file" 414 in the server 400.

- "At least one user interface, coupled to at least the first and second backup

  storage systems" See Fig. 1, element 104, Gusler.

- "Domain that includes at least the first and second backup storage systems and

  excludes the third backup storage system".

Gusler discloses in Fig. 1 including one server with corresponding clients. This schema

corresponds to the "domain". In addition, Gusler also suggests that the system may

include additional server, clients (Paragraph 0022). Clearly, Gusler suggests using "a

third backup storage system to store backup data from at least one client".

        Gusler also teaches that the workstation (or server) contains a list of nodes from

which images are to be retrieved. This list is stored in the repository, which is a

database of information about the various clients that the server is supporting

(Paragraph 0036). The Gusler may be obviously modified to support multiple domains in the following fashion:

- Gusler teaches the use of TCP/IP for the exemplary network protocol (Gusler: p.3, [0036].

- It is well known in the art that TCP/IP supports "multi-homing" e.g. locating a single machine on multiple domains.

- Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to situate the server of Gusler on multiple domains via the multi-homing feature of TCP/IP, said server of Gusler is able to manage clients on different domains.

Examiner further notes that multi-homing is a common practice for servers within the context of security (e.g. firewalls, portals, etc.) which reads on the practice stated in the pending application.

◊ As per claim 28 - 29, 31 – 32, 38 – 39, 8, 10, 13 – 15, 18 – 19, 21, 23 – 24, 41 – 42, 45, 47 – 48, 50 – 51,

- The Gusler server can be situating on multiple domains via the multi-homing feature of TCP/IP, which includes a different client with respective backup storage. This client corresponds to the third backup storage system.

- The multi-homing is a common practice for servers within the context of security (e.g. firewalls, portals, etc.), in which only system in the same domain can see data or receive data each other and cannot see or receive other data from different domain.

◇ As per claim 33 – 36, 3 – 6,

As discussed above, the Gusler server can be situating on multiple domains via the multi-homing feature of TCP/IP, which included a different client with respective backup storage. However, the domain that's not include this client can be acted as domain master and is used to stored client identifiers (paragraph 0036)

- " The domain master stores at least one second identifier … one domain" See Fig. 1.

- "A second controller" corresponds to the components in the backup processes 404 of Fig. 1.

- " The domain master authorizes each controller to transmit the information… only within one domain (See Fig.5).

◇ As per claim 11,

Claim 11 is rejected based on the rejection of claims 1,3 – 6.

4.   Claims 54 - 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler et al (U.S. 2002/0156965) in view of Logan et al (U.S. 5,968,121).

Gusler does not clearly teach that the system will determine a lapsing time period to automatically generating the report. However, Logan discloses a method for replicating a resource. Logan teaches that the object may include replication-scheduling properties, which specifies the frequency with which applications will poll other sites for changed information (col. 9, lines 40 – 51). It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of

Logan into the system of Gusler, because the combination would reduced the
inconsistency between sites by backup regularly.

Response to Arguments

5.   Applicant's arguments with respect to claims 1, 3 – 8, 10 – 15, 17 – 24, 26 – 42,
44 – 45, 47 – 51, 53 - 56 have been considered but are moot in view of the new
ground(s) of rejection.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to
applicant's disclosure.

-   John P. Shannon (U.S. 5,852,713) discloses a computer data file backup system.

-   Mathew Joseph Anglin (U.S. 6,026,414) discloses a system including a proxy
    client to backup files in a distributed computing environment.

-   Yanai et al (U.S. 6,647,474) discloses a remote data mirroring system using local
    and remote write pending indicators.

-   Thurman et al (U.S. 5,613,106) discloses a method for processing and storing a
    transaction in a distributed database system.

-   Hsiao et al (U.S. 6,564,215) discloses an update support in database content
    management.

7.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to CamLinh Nguyen whose telephone number is 305-1951.
The examiner can normally be reached on Monday - Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic, can be reached on (703) 308- 1436. The fax phone number

for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 305-3900.

Cam-Linh Nguyen
Art Unit 2171

LN

WAYNE AMSBURY
PRIMARY PATENT EXAMINER